IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6221 OF 1995

Shri Suryakant Sahebrao Salvi, .. Petitioner.
Vs
Master Balasaheb Bhaskar Surykant Salvum .. Respondent

Mr Sanjay Kshirsagar, for the petitioner.
Mr C.R.Dalvi, appointed as Amicus Curiae for the respondent.

CORAM : D.B.BHOSALE, J.

DATE : MARCH 18, 2005.

P.C.

1. Heard the learned counsel for the parties.

2. This petition is directed against the judgment and order dated 19.3.1995 passed by the Family Court in P.E.No 1 of 1994 filed on behalf of minor respondent under section 125 of Cr.P.C. That application was allowed and the petitioner was directed to pay maintenance at the rate of Rs.250/- per month to the respondent-child. Mr Kshirsagar, learned counsel for the petitioner, at the outset, submits that the petitioner is not challenging the order of granting maintenance to the respondent on merits. On the date of filing of the petition the respondent-child was 12 years old in 1995. According to the Mr Kshirsagar, till the respondent attained majority the petitioner has paid maintenance as per the order dated 19.3.1995. He further submits that

he has instructions to press this petition only against certain observations made in paragraph 10 of the impugned judgment, which are factually incorrect. The relevant observations in paragraph 10 read thus :

> "It is to be noted that the respondent has not adduced the evidence of his father to prove that the petitioner never lived with the respondent at Pandeshwar. The respondent has filed his school leaving certificate at Exhibit-29 which disclosed that his name is Salvi Suryakant Sahebrao and not Bhaskar Sayabu Salvi but I have already mentioned that there might be some mistake in the name of father of the respondent but the fact that the name of the present petitioner was already disclosed in M.A.No.80 of 1979 that the respondent has married with the present petitioner and he was living with the petitioner. Such specific contentions were raised by Shamla, the first wife of the respondent (and she has proved the same which is observed in the judgment Exh.25.) At this stage it will be proper to mention that the decision in M.A.No.80/79 was challenged by Shamla as well as respondent in Cri.Revision

No.32/92 and 33/83 and both the revisions were heard and decided together by learned Addl.Sessions Judge, Pune on 25.1.1985. The certified copy of the judgment is at exh.26. The judgment and order in M.A.No.80/79 is confirmed (and the contentions raised by the petitioner wife that the respondent had married or he is residing with Babi is also confirmed in the revision application.)"

3. Mr Kshirsagar submits that the bracketed portion in the aforementioned paragraph is factually incorrect. He took me through the judgment and order dated 10.11.1992 passed in M.A.No.80 of 1979 and also the judgment and order dated 25.1.1985 passed in Revision Application No.39 of 1983. It is clear from the aforementioned judgment that the issue as to whether the petitioner married second time, was answered in negative. This shows that the aforesaid bracketed portion in paragraph 10 of the impugned judgment is factually incorrect. The bracketed portion in paragraph 10 read thus :

" (and she has proved the same which is observed in the judgment Exh.25)"
" (and the contentions raised by the

petitioner wife that the respondent had married or he is residing with Babi is also confirmed in the revision application.)"

Keeping that in view and considering the judgments in M.A.No.80 of 1979 and in Revision Application No.39 of 1983, the observations made in paragraph 10 of the impugned judgment are set aside. Rest of the judgment is maintained.

. With these observations, the writ petition stands disposed of. Rule is discharged.

(D.B.Bhosale, J.)